

REMARKS

Applicants submit the following Amendment in response to the Office Action dated September 9, 2008. Claims 1-37 are pending in this application. By this Amendment, Applicants have amended claims 7 and 9 to overcome the rejection under 35 U.S.C. § 112, second paragraph. These amendments were not made to distinguish the presently claimed invention of the art of record. Favorable reconsideration of all of the pending claims is requested in view of the remarks below.

As stated above, Applicants have amended claim 9 to overcome the rejection under 35 U.S.C. § 112, second paragraph. Claim 7 included the term "filter assembly" and was amended to eliminate this term as well. Again, these amendments were not made to distinguish the presently claimed invention of the art of record. Applicants respectfully request the Examiner to withdraw the rejection based on 35 U.S.C. § 112, second paragraph.

Claims 1-34, 36 and 37 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 7,331,973 to Gesswein et al. (the "Gesswein patent"). Applicants strongly disagree with the Examiner's position regarding the Gesswein patent since many of the recited components are clearly absent in the Gesswein patent. First, it is noted that claims 1-18 and 28-37 require a locking component which includes means for temporarily compressing at least a portion of the flexible body member of the guide wire. Claims 19-27 require the guide wire locking component to include a longitudinal opening extending into the body member which is adapted to receive and temporarily compress at least a portion of the flexible body member. The Examiner has identified the helical coil 42 in the Gesswein patent as the flexible body member attached to the guide wire. This locking component 54 in the Gesswein patent, however, does not include a means for temporarily compressing at least a portion of the coil 42 of the guide wire, as is recited in claims 1-18 and 28-37, or a component which includes a longitudinal opening extending into the body member which is adapted to receive and temporarily compress at least a portion of the flexible body member, as recited in claims 19-27. Rather, the

embodiments of the locking component in Figures 7B and 7C in the Gesswein patent show the use of spring-loaded tabs 54 which include a tip adapted to extend into a **gap** formed on the helical coil 42. Compression of the helical coil 42 in the Gesswein patent is not shown. However, even assuming *arguendo* that the locking component 54 in the Gesswein patent provides some means for compressing the coil 42, all of the claims further require a recess to be formed on the body member of the locking component for receiving the **compressed portion** of the flexible body member. Applicants note that in the Office Action, the Examiner did not identify the recess on the locking component 54 in the Gesswein patent. Applicants submit that a recess is clearly lacking in the Gesswein device. Rather, the Gesswein device relies on the end of the tab 54 to be received and biased in a **gap formed between the coils of the helical coil 42** for locking purposes. There is simply no gap on the body of the tab 54 which receives a portion of the helical coil 42, no less a compressed portion of this helical coil 42 that fits within this gap. For at least these reasons, the Gesswein patent fails to disclose all of the components recited in the rejected claims. Applicants respectfully request the Examiner to withdraw the Gesswein patent as an anticipatory reference.

Claim 35 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the Gesswein patent. Applicants note that the Gesswein patent and the present application were, at the time the presently claimed invention was made, each either owned by or subject to an obligation of assignment to Advanced Cardiovascular Systems, Inc. Applicants direct the Examiner's attention to the recorded assignment of the present invention to Advanced Cardiovascular Systems, Inc., which is recorded at Reel/Frame 021842/0688 on November 17, 2008. The Assignment is dated February 26, 2004. The present application was filed after the November 22, 1999 effective date of change to 35 U.S.C. § 103(c) which disqualifies § 102(e) prior art from consideration under § 103 if the subject matter of the reference and the claimed invention were commonly owned at the time the claimed invention was made. The Gesswein patent was filed on September 30, 2002 and issued on February 19, 2008 after the filing date of the present application.

It constitutes a § 102(e) reference. The Gesswein patent has been assigned to Advanced Cardiovascular Systems, Inc as is evidenced on the front page of the Gesswein patent. In view of this statement of common ownership, Applicants respectfully assert that the Gesswein patent is not valid 35 U.S.C. § 103(a) reference and traverse the current rejection. MPEP 706.02(1)(2). Moreover, as Applicants state above with regard to claim 1, the Gesswein patent fails to disclose even the most basic elements recited in claim 1. Applicants respectfully request the Examiner to withdraw the U.S.C. § 103(a) rejection as applied to claim 35.

In view of the foregoing, it is respectively urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at (310) 824-5555 to facilitate prosecution of this application, if necessary.

In light of the above remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case. Please charge or credit Deposit Account No. 06-2425 for any additional fees in connection with this Amendment.

Respectfully submitted,
FULWIDER PATTON LLP

By: /Thomas H. Majcher/
Thomas H. Majcher
Registration No. 31,119

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